

Docket No.: 07-0532
Bench Date: 05-06-09
Deadline: None

MEMORANDUM

TO: The Commission

FROM: Lisa M. Tapia, Administrative Law Judge

DATE: April 13, 2009

SUBJECT: Central Illinois Public Service d/b/a AmerenCIPS

Petition for a Certificate of Public Convenience and Necessity, pursuant to Section 8-406 of the Illinois Public Utilities Act, to construct, operate and maintain new 138,000 volt electric lines in Madison County, Illinois

RECOMMENDATION: Enter the attached Order granting a Certificate of Public Convenience and Necessity.

On October 29, 2007, AmerenCIPS filed a Petition with the Commission for a Certificate of Public Convenience and Necessity pursuant to Section 8-406 of the Act authorizing AmerenCIPS to construct, operate, and maintain two new 138 kilovolt electric transmission lines in Roxana, Illinois. The transmission lines, Line 1 and Line 2, will connect to the Wood River Refinery ("WRR") owned by WRB Refining, LLC ("WRB") to the existing AmerenIP Wood River-Roxford L1502 and AmerenCIPS Roxford-BOC transmission lines. In addition, AmerenCIPS requests an order pursuant to Section 8-503 of the Act. AmerenCIPS does not at this time seek authority of eminent domain under Section 8-509.

Petitions for Leave to Intervene were filed by BP Products North America Inc., as successor in interest to American Oil Company and Amoco Oil Company, (jointly, "BP") and WRB.

An evidentiary hearing was held on May 22, 2008. At the conclusion of the hearing the record was marked "Heard & Taken." A Proposed Order was delayed until March 12, 2009, due to the pending completion of Judge Albers' transmission case, Docketed under 06-0706. Briefs on Exceptions were due March 25, 2009 and Replies on Exceptions were due April 1, 2009.

AmerenCIPS asserts that the transmission lines are necessary for it to provide adequate, reliable, and efficient service to the WRR, which will increase its load demand starting in 2009, due to construction of additional facilities. The addition of a refining

unit will raise the load demand of WRR beyond what the current services can provide. WRR has requested the transmission lines to meet the new load demand.

There is no dispute on whether AmerenCIPS meets the requirements for both transmission lines under Section 8-406 of the Act. The parties however disagree on only one issue and that is whether this Commission should issue an order pursuant to Section 8-503 for both, or only one, of the 138 kV transmission lines that AmerenCIPS proposes to construct.

Staff argues that only Line 2, of the two transmission lines that AmerenCIPS proposes is necessary to satisfy the needs of its customers and that AmerenCIPS proposes building Line 1, merely to improve reliability. Staff contends that there is no reason for AmerenCIPS to request an order pursuant to Section 8-503 other than to obtain eminent domain authority to obtain property rights. Furthermore, Staff argues that if the Commission issues an order pursuant to Section 8-503 for those lines, in any such future proceedings this Commission would be obligated to grant AmerenCIPS eminent domain authority for the transmission lines.

AmerenCIPS contends that it is not petitioning this Commission to receive eminent domain. It argues that for this Commission to grant eminent domain authority, AmerenCIPS must show not just that an order under Section 8-503 order has been received but that the project is necessary and that AmerenCIPS has negotiated for rights-of-way with affected landowners in good faith. AmerenCIPS argues that its request is brought under Sections 8-406 and 8-503. In the event AmerenCIPS needs to receive eminent domain it will file a new petition under Section 8-509 only after unsuccessful negotiations, and expressly request eminent domain. Therefore, AmerenCIPS argues that the issuance of a Section 8-503 order does not by itself result in a grant of eminent domain authority.

The attached Order opines that the second line proposed by AmerenCIPS is not only necessary to satisfy the needs of its customers but also critical in improving reliability to its customers. Also, the Commission finds that AmerenCIPS presented sufficient evidence establishing that the transmission lines are necessary to provide adequate, reliable, and efficient service to the WRR, and therefore establishing each of the requirements under Section 8-503 for both lines.

An additional paragraph was added to the Commission's Conclusion on page 14, from the proposed order imposing the condition that all costs for the project are borne by WRB. Although, AmerenCIPS agreed to this condition in testimony, Staff suggested it be included in the order and AmerenCIPS had no objection.

In closing, the attached Order grants AmerenCIPS a Certificate of Public Convenience and Necessity pursuant to Section 8-406 of the Act and authorizes them to construct the transmission lines pursuant to Section 8-503 of the Act for both transmission lines. This conclusion is consistent with the Commission's recent order in Docket No. 06-0706.

LMT